

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI

Plaintiff/Moving Party

- and -

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and
JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, JOHN DOE 4, JOHN DOE 5,
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Defendants/Responding Parties

Proceeding under the *Class Proceedings Act, 1992*

MOTION RECORD
Motion for Interlocutory Injunction

CHAMP & ASSOCIATES
Barristers and Solicitors
43 Florence Street
Ottawa, ON K2P 0W6

Per: Paul Champ
LSO: 45305K

T: 613-237-4740
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Defendants/Responding Parties

NOTICE OF MOTION

The Plaintiff will make a motion to the Court on Saturday, February 5, 2022, at 10:00 a.m., or as soon after that time as the motion can be heard, virtually by Zoom.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- ☐ In writing under subrule 37.12.1(1) because it is uncontested;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

THE MOTION IS FOR:

1. An interlocutory injunction, pursuant to section 101 of the *Courts of Justice Act* and Rule 40.01 of the *Rules of Civil Procedure*, prohibiting the Defendants, or any other participant in the Freedom Convoy protest, from using vehicle horns in the vicinity of downtown Ottawa, being any streets north of the Highway 416, otherwise known as the Queensway, for the duration of the protest, or until the action can be heard and determined;
2. In the event this motion is opposed, costs of the motion on a substantial indemnity basis; and
3. Such further and other relief as this Honourable Court may deem just.

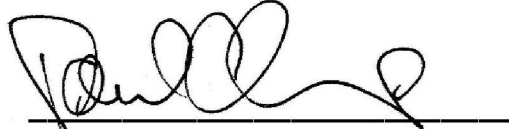
THE GROUNDS FOR THE MOTION ARE:

1. The Defendants are engaged in a protest in downtown Ottawa called the Freedom Convoy 2022;
2. A key tactic of the protest is for semi-tractor trucks to blast their air horns and train horns incessantly in the vicinity of the Parliament Buildings;
3. The air horns and train horns are extremely loud and can cause permanent hearing damage;
4. The air horns and train horns are blasted at sound levels of 105 to 120 decibels for prolonged periods;
5. The horn tactic has been used by the Defendants in Ottawa for seven days, causing significant disruption to the private use and enjoyment of the homes of the Plaintiff and the proposed Class Members;
6. The horn tactic is organized and planned by the Defendants to cause serious discomfort and inconvenience to the Plaintiff and the Class Members in their private homes;
7. The Defendants have expressed their intention to continue the horn tactic indefinitely;
8. The use of the horn tactic by the Defendants is unreasonable and substantially interferes with the use and enjoyment of the homes of the Plaintiff and the proposed Class Members.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The affidavit of Zexi Li;
2. The affidavit of Trent Baur; and
3. The affidavit of Dr Nita Scherer.

Date: February 4, 2022

A handwritten signature in black ink, appearing to read 'Paul Champ', is written over a horizontal line.

Per: Paul Champ
CHAMP & ASSOCIATES
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Solicitors for the Plaintiff



Court File No:

Electronically issued
Délivré par voie électronique : 04-Feb-2022
Ottawa

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office,

WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____

Registrar
Court House,
161 Elgin Street
Ottawa, Ontario

TO: Chris Barber
Swift Current, Saskatchewan

AND TO: Benjamin Dichter
Toronto, Ontario

AND TO: Tamara Lich
Medicine Hat, Alberta

AND TO: Patrick King
Red Deer, Alberta

AND TO: John Doe 1 to John Doe 60

CLAIM

1. The Plaintiff, on behalf of the Class described herein, claims the following:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the representative Plaintiff for the Class (as defined below);
 - (b) damages for private nuisance in the amount of \$4.8-million or any such amount that this Honourable Court deems appropriate;
 - (c) punitive damages in the amount of \$5-million;
 - (d) injunctive relief prohibiting the continuation of the nuisance;
 - (e) pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, as amended;
 - (f) the costs of this action, including HST;
 - (g) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to section 26 of the *Class Proceedings Act*, 1992, S O 1992, c. 6; and
 - (h) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Over the past two years, the COVID-19 pandemic has caused significant stress, severe illness, death and grief to every person in Canada. Over 33,000 Canadians have died from COVID-19 and thousands more suffer from its prolonged effects.
3. Governments at all levels across the country have adopted public health measures to prevent severe illness and death from COVID-19. These public health

measures have caused significant disruption to the lives of every Canadian. Despite this disruption, the vast majority of Canadians support public health measures, including vaccine mandates, because they believe these measures save lives.

4. A minority of Canadians are strongly opposed to these public health measures. The Defendants are among this minority. To express their political opposition to COVID-19 public health measures, the Defendants organized a “Freedom Convoy” of vehicles, including a large number of semi-trailer-tractor trucks, to travel from different parts of Canada and converge on the national capital of Ottawa.

5. The Defendants planned to organize a large demonstration in the vicinity of the Parliament Buildings in Ottawa. Like many protesters, they wanted their voices heard by political leaders. To ensure that happened, the Defendants designed a plan to block all the streets and roadways around Parliament and the surrounding neighbourhood, and make as much noise as possible and cause discomfort to the political leaders. To make that noise, the Defendants planned, organized, encouraged and directed “Freedom Convoy” participants to blast the horns on their vehicles, non-stop, for several hours.

6. As planned by the Defendants, the Freedom Convoy vehicles began to arrive in Ottawa in Ottawa on Friday, January 28, 2022. As planned by the Defendants, the Freedom Convoy protests formally launched on Saturday, January 29, 2022. Unlike most protests, the Freedom Convoy decided to stay and keep protesting, every day and night, until the Government of Canada met their demands of dropping all public health measures across Canada. The fact that public health measures are predominantly implemented by provincial governments has not deterred the Defendants. At the time this claim is issued, the protest remains ongoing.

7. A key tactic of the Freedom Convoy is blasting vehicle horns non-stop, all day. These horns include the air horns and train horns on the many semi-trucks. Air horns and train horns create an extremely loud noise as a warning. Air horns and train horns emit noise in the range of 100 to 150 decibels. These horns are not meant to be used

for longer than a few seconds because the sound levels are dangerous and cause permanent damage to the human ear. Despite these dangers, the Freedom Convoy trucks have been blasting these dangerous horns continuously for 12 to 16 hours per day.

8. The historical neighbourhood around the Parliament Buildings is home to approximately 24,000 residents. These residents are used to the inconvenience of large demonstrations and protests. Sometimes they even join in if they believe in the cause. These residents understand and respect the importance of democratic freedoms, including the freedoms of association, assembly and expression. But they have never experienced anything like the constant and excruciatingly loud horns of the Defendants' Freedom Convoy. For the approximately 6,000 residents who live closest to the protests, the non-stop blaring horns have caused unbearable torment in the sanctity of their own homes.

9. The Freedom Convoy horn protest organized by the Defendants has caused significant mental distress, suffering and torment to the Plaintiff and the proposed Class Members who live in the six-block radius around the main protest streets. The horn protest has substantially and unreasonably interfered with the private use and enjoyment of the Class Members' property.

PARTIES

10. The Plaintiff Zexi Li resides in Ottawa, Ontario, within five blocks of Parliament Hill. She is a 21-year-old public servant and graduate of the University of Ottawa.

11. The Defendant Chris Barber resides in Swift Current, Saskatchewan. He is one of the organizers of the Freedom Convoy. He is a truck driver, who owns a trucking company in Saskatchewan.

12. The Defendant Benjamin Dichter resides in Toronto, Ontario. He is one of the organizers of the Freedom Convoy. Dichter is a former Conservative Party of Canada candidate and a prominent supporter of the People's Party of Canada.

13. The Defendant Tamara Lich resides in Medicine Hat, Alberta. She is one of the organizers of the Freedom Convoy and frequently acts as a spokesperson on social media accounts associated with the Freedom Convoy. She is listed as the organizer of the Freedom Convoy's fundraiser on the crowdsourced fundraising platform GoFundMe. Lich is the Secretary for the Maverick Party, a western separatist group formerly known as Wexit Canada, and was also an organizer for the Yellow Vests Canada movement.

14. The Defendant Patrick King resides in Red Deer, Alberta. He is one of the organizers of the Freedom Convoy. King was a co-founder of Wexit Canada and an organizer for the Yellow Vest Canada movement.

15. John Does 1 to 60 are drivers of semi-trucks that are parked in the downtown Ottawa core during the Freedom Convoy protest, blasting air horns and train horns on their trucks as a form of protest. The identities of these truck drivers are unknown at the time of the issuance of the claim.

16. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on her own behalf and on behalf of all other persons who reside within two blocks of the main protest streets.

17. The proposed members of the Class are:

all persons who reside in Ottawa, Ontario, from Bay Street to Elgin Street and Lisgar Street to Wellington Street.

ORGANIZING THE FREEDOM CONVOY PROTEST

18. In early January 2022, the Defendants began to organize a protest to express their political opposition to COVID-19 health measures. They discussed and created a common plan to have a “Freedom Convoy” of vehicles, including a large number of semi-trailer-tractor trucks, travel from different parts of Canada and converge in the national capital of Ottawa on January 29, 2022.

19. On or around January 14, 2022, the Defendants created a Facebook page called “Freedom Convoy 2022” which they described as a “meeting place to discuss logistics, organization and mobilization to restore our Freedoms”. Indeed, the Defendants used this Facebook page to discuss logistics, organization and mobilization for the Freedom Convoy.

20. On or around January 23, 2022, the Defendants also created a fundraising page for the Freedom Convoy on the crowdsourced fundraising website GoFundMe. The Defendant Lich is listed as the organizer of this GoFundMe page, and the Defendant Dichter is listed as a Team Member.

21. On their GoFundMe page, the Defendants discussed the logistics and organization for the Freedom Convoy and solicited donations from supporters to assist them with their common plan to travel to and occupy Canada’s capital.

22. The Defendants discussed the common goals that they hoped to achieve by organizing the Freedom Convoy, which included forcing Prime Minister Justin Trudeau and the federal government to announce a repeal of all public health measures.

23. The Defendants discussed and coordinated plans for how they would occupy Ottawa and how they would attempt to reach their common goals. They discussed setting up a command room or war room to further strategize once they reached Ottawa.

24. One of the main tactics coordinated by the Defendants, in support of their goal of forcing the federal government to listen to their demands, was for participants to make as much noise as possible when stationed in Ottawa's downtown. To make that noise, the Defendants planned, organized, encouraged and directed Freedom Convoy participants to continuously blast the horns of their vehicles, as described further below.

SETTING UP IN OTTAWA AND MAIN PROTEST STREETS

25. Starting on or around Friday, January 28, 2022, Freedom Convoy vehicles started to arrive in Ottawa. These vehicles included tractor trailers, tractors with no trailers, passenger vehicles, and large recreational vehicles ("RVs").

26. When they arrived in Ottawa, the Freedom Convoy vehicles began to congregate to block many of the streets surrounding Parliament Hill and in the Centretown neighbourhood.

27. Several hundred vehicles have remained camped out in Ottawa's downtown since January 28, 2022, lined up bumper-to-bumper. The clusters of vehicles are predominantly concentrated on the streets between Bay Street to Elgin Street and Laurier Avenue to Wellington Street.

28. For 24 hours per day, the semi-trucks have primarily remained lined and concentrated on Kent Street and Bank Street running north south, and on Wellington Street running east west. The trucks remain running all day and night, with other Freedom Convoy participants organizing the delivery of fuel in jerry cans.

HORN TACTIC

29. One of the main protest tactics employed by Freedom Convoy participants has been to make as much noise as possible to disturb individuals in Ottawa's downtown.

30. To make that noise, the Defendants planned, organized, encouraged and directed Freedom Convoy participants to blast the horns on their vehicles, non-stop, for several hours.

31. The Defendants coordinated their horn-blasting tactic with Freedom Convoy participants via social media channels, including Facebook and YouTube, and via the walkie-talkie app Zello.

32. As one example of this, on January 31, 2022, the Defendant King posted a YouTube video instructing all Freedom Convoy “truckers” to collectively honk for ten minutes straight every hour and half hour.

33. Initially, this honking would last from approximately 7AM to 1AM. On or around February 1, 2022, a new timeframe was coordinated for the honking, which now occurs from approximately 8AM to 11PM.

34. The Defendants have taken to social media and Zello to celebrate the honking and to encourage participants to continue employing this tactic.

35. The types of horns that have been employed as part of the horn-blasting tactic include air horns, which are only to be used for safety warnings, and train horns.

36. Operator manuals for the types of horns being used by the Freedom Convoy provide warnings that they produce “extreme loudness” and can cause permanent hearing damage.

DEFENDANTS’ CONDUCT IS UNLAWFUL

37. The Plaintiffs plead that the Defendants’ ongoing and concerted horn-blasting tactic is unlawful.

38. The Defendants’ conduct is clearly prohibited by sections 2, 3 and 15 of the City of Ottawa Noise By-Law, By-Law No. 2017-255.

39. Section 2 of By-Law No. 2017-255 states that no person shall cause or permit any bass noise, unusual noise or noise likely to disturb the inhabitants of the City.

40. Section 3 of By-Law No. 2017-255 states that no person shall cause or permit the ringing of any bell, sounding of any horn, or shouting in a manner likely to disturb the inhabitants of the City.

41. Section 15 of By-Law No. 2017-255 states that no person shall cause or permit unnecessary motor vehicle noise such as the sounding of the horn, revving of engine and the squealing of tires of any motor vehicle on any property other than a highway.

42. The level of noise emitted by the Defendants also exceeds the noise levels that would be permitted in a workplace setting, contrary to the Federal Occupational Health and Safety Regulations, SOR/86-304 enacted pursuant to the *Canada Labour Code*, RSC, 1985 c. L-2 and contrary to the Ontario Noise Regulation 381/15 enacted pursuant to the *Occupational Health and Safety Act*, RSO 1990, c 01.

43. The Defendants' horn-blasting also constitutes conduct that violates the *Criminal Code of Canada*, RSC 1985, c C-46 pursuant to sections 430(1)(d) (Mischief), 175(1)(d) (Cause Disturbance), and 180(1)(s) (Common Nuisance).

44. Finally, exposure to loud noise for a prolonged period of time and sleep deprivation are both techniques that have been found to constitute torture, and are considered to be cruel, inhumane and degrading treatment under international law.

IMPACT

45. When walking within 50 feet of the semi-trucks blasting their air horns, the sound pressure decibel level is between 100 and 105 constantly. When the train horns on the semis are blasted, the decibel level increases to 120 to 125.

46. For individuals who live in residences beside the streets where the horns are blasting, the sound within the home is approximately 80 decibels.

47. The normal sound in a home is 35 to 40 decibels. A normal conversation is 55 to 65 decibels. A lawn mower can be 88 to 94 decibels.

48. Sleep is best at 30 decibels or below and there can be significant interference with sleep when sound level decibels exceed 45.

49. Each 10 decibel increase in sound level equates to a doubling of the sound in the listener's perception. An increase of 20 decibels is a fourfold increase.

50. Hearing damage can occur at 90 decibel sound pressure level where the exposure is over 30 minutes. At 100 decibels, sound pressure can cause hearing damage in about 15 minutes; at 120 decibel sound pressure hearing damage can occur in a matter of seconds.

51. Prolonged exposure to sound levels of 70 decibels and above can cause psychological distress and interfere with psychological integrity.

52. The truck horns are causing moral and psychological harm to the Class Members. The horns are substantially interfering with the private use and enjoyment of their homes. With horns ending as late as 1am, and no earlier than 11pm, Class Members are experiencing significant sleep disturbances.

53. Class Members who leave their homes for work, groceries or necessities experience significantly elevated sound exposure. Some Class Members are avoiding going out as much as possible and are prisoners in their own homes. Others have been forced to leave their homes and find alternate accommodation. The Class Members are living in daily torment caused by the incessant blasting of truck horns.

PLAINTIFF'S PERSONAL EXPERIENCE

54. The Plaintiff, a resident of the Centretown neighbourhood in the heart of downtown Ottawa, has suffered mental distress, suffering and torment as a result of

the persistent and loud honking from several large trucks which have been camped outside of her residence since Friday, January 28, 2022.

55. While some of the honking sounds are from regular sized motor vehicle horns, the loudest and most persistent honks have come from large transport trucks. Some of these trucks are equipped with horns emit loud honking noises typical of vehicles of their size. A number of the trucks are equipped with horns which are similar in tone and volume to train horns.

56. From within her unit, the sound of all three types of honking horns from the persists at regular and frequent intervals from morning to night, sometimes as late as 1:30 am. With the exception of some short periods of reprieve late in the night, the sound feels to the Plaintiff as if it is nearly constant. The honking of the horns is frequently accompanied by loud music, sounds of shouting and fireworks. The combination of these sounds makes the Plaintiff feel as though she is living in a war zone.

57. The honking horns, in particular, have interfered with the sense of peace, safety and serenity which the Plaintiff previously enjoyed in her home. During the brief periods when the sound of honking horns subsides, the Plaintiff is unable to enjoy the relative quiet because she becomes riddled with anxious anticipation for the moment it will start up again. The Plaintiff has found this anxious anticipation almost as unbearable as the sounds of the horns themselves.

58. The Plaintiff has been unable to enjoy a restful night's sleep since the Freedom Convoy arrived in her neighbourhood. The only way the Plaintiff can fall asleep and temporarily escape the noise is by playing music on external speakers at 70-80% volume and then inserting noise-cancelling earphones or earplugs into her ears.

59. The Plaintiff is fearful every time she ventures outside. She does not leave her residence without first inserting noise-cancelling headphones into her ears. Even with these devices in her ears, the Plaintiff can still hear the sounds of the honking horns

very clearly. The sound is so loud that she can physically feel vibrations inside her ears.

60. When the Plaintiff ventures outside, she is almost immediately subjected to heckling by members of the Freedom Convoy, yelling at her to remove the mask she wears to protect herself and others from contracting COVID-19. When she ignores the heckles, members of the Convoy respond by honking their horns which invariably causes the Plaintiff to flinch. When the Plaintiff flinches, the hecklers cheer loudly.

61. Since Friday January 28, 2022, the Plaintiff has contacted the Ottawa Police Service on at least 14 occasions to complain about the noise and the distress it is causing her. In response to her calls, she has either been told that there's nothing that can be done or that there are officers on the ground who will address the issue, but no one ever comes and the noise continues unabated. The sense that police are impotent to enforce law and order has contributed to the Plaintiff's fear and anxiety which are further exacerbated by the intolerable levels of noise.

62. The Plaintiff loves her community and is heartbroken by the trauma that is being inflicted on her and her neighbours.

PRIVATE NUISANCE

63. The incessant blaring of the high decibel air horns and train horns substantially interferes with the private use and enjoyment of the Class Members' homes. The conduct is totally unreasonable and unjustified.

64. The Defendants Barber, Dichter, Lich and King have organized, planned, encouraged and directed the horn tactic by Defendants John Doe 1 to John Doe 60.

DAMAGES SUFFERED BY CLASS MEMBERS

65. As a consequence of the private nuisance by the Defendants, Class Members suffered injury and damages including:

- (a) emotional and mental distress;
- (b) difficulty concentrating;
- (c) interference with quiet enjoyment of home;
- (d) headaches; and
- (e) difficulty sleeping.

66. The estimated damages per Class Member is \$100 per day of the continued use of the unlawful horn tactic.

67. Some Class Members have incurred special damages for the cost of alternate accommodations and ear plugs, in an amount to be specified at a future date.

PUNITIVE DAMAGES

68. The Defendants deliberately planned the horn tactic to cause distress and discomfort to the Class Members and substantially interfere with the private enjoyment of their homes. The Defendants are aware or ought to be aware that the prolonged use of the extremely loud air horns and train horns can cause permanent hearing damage and psychological harm. The Defendants have acted with wanton disregard towards the residents of Ottawa.

69. This high-handed and callous conduct of the Defendants warrants the condemnation of this Honourable Court. Canada is a free and democratic society with a long tradition of peaceful protest and assemblies. The Defendants have abused those freedoms to cause serious harm to others, innocent bystanders to the Defendants' pursuit of their misguided political goals.

70. The Plaintiff proposes that this action be tried at the City of Ottawa, Ontario.

Dated this 4th day of February, 2022.

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43 Florence Street
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Court File No.

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Plaintiff

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SUPERIOR COURT OF JUSTICE

STATEMENT OF CLAIM

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Solicitors for the Plaintiff

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Defendants/Responding Parties

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AFFIDAVIT OF ZEXI LI

I, ZEXI LI, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I am the representative Plaintiff in this proposed class action and the moving party in this motion. As such, I have personal knowledge of the matters to which

I hereinafter depose except where I have stated my evidence to be on information and belief, in which case I have indicated the source of my information and my belief in the truth of the information.

2. I reside in the Centretown neighbourhood in the heart of downtown Ottawa. I first moved to Ottawa to pursue my post-secondary education at the University of Ottawa in the fall of 2017. In the course of my studies, I fell in love with the city and, in particular, the vibrant, multi-cultural community in which I currently reside.
3. I am informed by my review of the Ottawa Neighbourhood Study undertaken by the University of Ottawa and do believe that the population of Centretown is in the range of approximately 28,000 residents. I would estimate based on that number that there are approximately 5,000 to 6,000 residents in the vicinity of where I live, within a six block radius of Parliament Hill.
4. Since Friday, January 28, 2022 I have been experiencing severe mental distress, suffering and torment as a result of persistent and loud honking from several large trucks which have been camped outside of my residence as a part of a so-called Freedom Convoy (the "Convoy"). I understand from media reports that the Convoy is comprised of people who have converged on Ottawa to express their political opposition to COVID-19 public health measures.
5. While some of the honking sounds are from regular sized motor vehicle horns, the loudest and most persistent honks have come from large transport trucks. Some of these trucks are equipped with horns which emit loud honking noises

typical of vehicles of their size. A number of the trucks are equipped with horns which are similar in tone and volume to train horns. The train horns are as loud if not louder than anything I have ever heard.

6. From within my apartment, I have been inundated with the sounds of honking horns, including train-type horns, from morning to night, sometimes as late as 1:30 am. With the exception of some short periods of reprieve late in the night, the sound feels like it's nearly constant.
7. I downloaded an application on my mobile phone called Decibel X which measures sound levels. When the sounds of honking horns are at their peak, Decibel X has recorded sound levels as high as 84 decibels within my apartment.
8. I cannot overstate the extent to which the honking horns are affecting me emotionally. My nerves are frayed. I can't sleep. I don't feel the usual sense of peace, safety and serenity which I usually feel when I'm at home. During the brief periods when the sound of honking horns subsides, I can't even enjoy the moment of relative quiet because I become riddled with anxious anticipation for the moment it will start up again. Waiting for the next honk is almost as unbearable as the sound of the horns.
9. I have not had a restful night's sleep since the Convoy descended on my community. The only way I can fall asleep and temporarily escape the noise is by playing music on external speakers at 70%-80% volume and inserting noise-cancelling earphones or earplugs into my ears.

10. I am scared to go outside but I do venture out when necessary. Before leaving my residence, I insert noise-cancelling headphones into my ears. Nonetheless, the sound of honking horns is almost unbearable. I can physically feel the noise vibrating inside my ears.
11. When I do get up the courage to leave my apartment, I am almost immediately subjected to heckling my members of the Convoy who yell at me to remove the mask I wear to protect myself and others from contracting COVID-19. If I ignore the heckles, members of the Convoy respond by honking their horns at me. In response to the horns being honked in such close proximity to me I almost invariably flinch, causing the members of the convoy to cheer loudly and laugh at my expense. I have never felt so unsafe or demoralized in my neighbourhood.
12. Since Friday January 28, 2022, I have contacted the Ottawa Police Service on approximately 14 occasions to complain about the noise and the distress it is causing me, either by phone or by approaching officers on the street near my home. In response to my calls for help I have either been told that there is nothing that can be done or that the officers on the ground will address the issue but the noise continues unabated. The fact that the police are apparently impotent to enforce basic order in my neighbourhood, in a context where I feel that I and others are being actively harmed, is making me even more anxious and fearful.

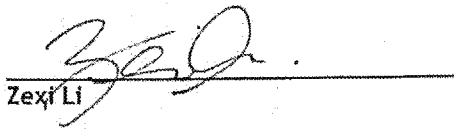
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13. I love my community so much and am proud to live here. I am heartbroken by the trauma that is being inflicted on me and my neighbours and by being made to feel like a prisoner in my own home by people who claim to stand for freedom.
14. I make this affidavit in good faith and for no improper purpose.

SWORN before me remotely)
 in accordance with O. Reg 431/20)
 by videoconference between)
 Ottawa, ON (commissioner))
 and Ottawa, ON (affiant))
 this 4th day of February, 2022)


 A commissioner for taking affidavits

Christine Johnson
Chung & Associates


 Zexi Li

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**Proceeding commenced at
Ottawa**

AFFIDAVIT OF ZEXI LI

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Paul Champ
LSO 45305K

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Fax: 613 232-2680
pchamp@champlaw.ca

Solicitors for the Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ZEXI LI

Plaintiff/Moving Party

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and
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JOHN DOE 56, JOHN DOE 57, JOHN DOE 58, JOHN DOE 59 and JOHN DOE 60**

Defendants/Responding Parties

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF TRENT BAUR
Affirmed February 4, 2022**

I, TRENT BAUR, of the City of Ottawa in the Province of Ontario, MAKE OATH AND SAY:

1. I am a resident of the City of Ottawa and, as such, have knowledge of the matters deposed to in this affidavit. Where my knowledge is based on information and belief, I have so stated the basis of such information and belief.

2. On the evening of Tuesday, February 1, 2022, I visited downtown Ottawa on foot to observe the “Freedom Convoy” demonstration first-hand. I was particularly interested in witnessing for myself the highly-publicized continuous and ongoing use of air horns and train horns as part of the demonstration. I also planned to measure the sound levels caused by the use of these horns.

3. Before attending at the demonstration, I downloaded and installed an application on my mobile phone called “NIOSH Sound Level Meter” (“NIOSH SLM”). It is my understanding that this application is produced by the United States National Institute for Occupational Safety and Health, and is meant to serve as a reliable and practical tool for measuring noise levels in workplaces and other noisy environments. I understand from information published by the US Centers for Disease Control and Prevention that the NIOSH SLM app has been tested and validated according to established acoustic standards. Information concerning the specifications and use of the app may be accessed at: <https://www.cdc.gov/niosh/topics/noise/app.html> and <https://www.cdc.gov/niosh/topics/noise/pdfs/NIOSH-Sound-Level-Meter-Application-app-English.pdf>.

4. When I arrived downtown, I found many of the streets were lined with semi-trailer-tractor trucks and the sound of horns was constant from all directions. I made video recordings and also took screen-captures of the readings measured by the NIOSH SLM app from various locations.

5. I made my first measurement using the NIOSH SLM app near the intersection of Laurier Avenue and Kent Street at 6:20PM. The noise would come in waves, subsiding for only a few minutes before starting again. At this location, the NIOSH SLM app indicated that the sound levels were over 100 decibels at the loudest points.

6. At Parliament Hill, trucks lined the street and the sound of the horns was constant. The NIOSH SLM app indicated that near Parliament Hill, the sound levels

were approximately 105 decibels at 6:38PM. I could only tolerate this level of noise for a few minutes.

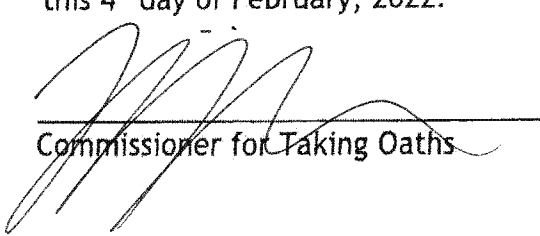
7. Later, while walking west on Albert Street towards Bank Street around 6:47PM, the NIOSH SLM app indicated that decibel levels in this area were steadily in the mid-80s. However, when a truck next to me suddenly blasted its horn, the NIOSH SLM app registered a noise level of 121 decibels. I was so startled by this noise that I jumped back, and found the noise hurt my ears. It is my understanding that even brief exposures to noise levels of 120 decibels and above can cause hearing damage.

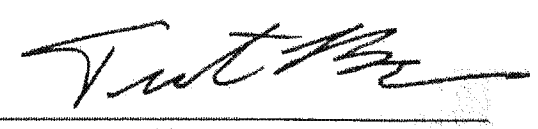
8. Near the intersection of Bank and Slater streets around 6:50PM, I encountered a truck that was equipped with a train horn parked directly opposite from a residential apartment building. The NIOSH SLM app registered a continuous noise level of 105 decibels as the driver sounded the train horn for a lengthy period.

9. As I left the demonstration area, I could still hear the sound of blaring horns clearly and loudly from several blocks away.

10. I make this affidavit in support of the plaintiff's emergency motion for injunctive relief and for no improper purpose.

AFFIRMED BEFORE ME REMOTELY)
 In accordance with O. Reg. 431/20)
 by videoconference between)
 Ottawa, ON (affiant) and)
 Ottawa, ON (commissioner))
 this 4th day of February, 2022.)


 Commissioner for Taking Oaths


 TRENT BAUR

ZEXI LI

- and -

CHRIS BARBER, BENJAMIN
DICHTER, TAMARA LICH, PATRICK KING and
JOHN DOES 1-60

Plaintiff (Moving Party)

Defendants (Responding Parties)

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF TRENT BAUR

CHAMP & ASSOCIATES
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Per: Paul Champ
LSUC#: 45305K
Email: pchamp@champlaw.ca

Solicitors for the Plaintiff

Court File No: CV-22-00088514-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ZEXI LI

Plaintiff/Moving Party

- and -

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Defendants/Responding Parties

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF NITA SCHERER

I, DR. NITA SCHERER, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I am physician licensed to practice medicine in the Province of Ontario. I practice general Otolaryngology, Head and Neck Surgery in Ottawa, Canada.. I completed

my residency in Otolaryngology, Head and Neck surgery from the University of Ottawa in 2003. I am a Fellow of the Royal College of Physicians and Surgeons and a former Diplomate of American Board of Otolaryngology. As such, I have personal knowledge and professional experience with the matters to which I hereinafter depose except where I have stated my evidence to be on information and belief, in which case I have indicated the sources of my information and my belief in the truth of the information.

2. I have practiced comprehensive general Otolaryngology, Head and Neck Surgery full time in Ontario since 2004, and practiced in British Columbia from 2003 to 2004 and am licensed to work in Nunavut. I am an assistant professor at the University of Ottawa, involved in teaching at the Faculty of Medicine, and have held a variety of administrative duties at the Faculty of Medicine, and the Department of Otolaryngology at the University of Ottawa. I am bilingual, with privileges at the Montfort Hospital, the Children's Hospital of Eastern Ontario, the Ottawa Hospital, and the Elisabeth Bruyere Hospital.
3. I treat patients with hearing loss, including patients who have lost their hearing as a result of exposure to excessive noise, typically in industrial employment settings.
4. The normal sound in a home is 35 to 40 decibels. A normal conversation is 55 to 65 decibels. A lawn mower can be 88 to 94 decibels.
5. Sleep is best at approximately 30 decibels or below and there can be significant interference with sleep when sound level decibels exceed 45.

6. It is important to note that every 10 decibel increase in sound level results in a tenfold increase in the listener's perception. An increase of 20 decibels is therefore a one hundred times increase in how the listener experiences the sound.
7. In accordance with Occupational Health and Safety guidelines and my professional opinion, I advise my patients that they should avoid exposure to any noise above 85 decibels for any longer than eight hours. Anything louder or longer than that can cause permanent damage to the ear.
8. Prolonged exposure to sound levels of 70 decibels and above would be expected to cause psychological distress and interfere with psychological integrity.
9. I understand from media reports that the so-called Freedom Convoy (the "Convoy") which arrived in Ottawa on Friday January 28, 2022 has stationed trucks in the vicinity of Parliament Hill which have been activating their horns, including very loud horns which are similar in tone and volume to train horns for prolonged periods during the day and into the night.
10. I am concerned that residents in the area will experience harmful long-term and in some cases permanent effects from their exposure to such loud noise, including possible permanent noise-induced hearing loss, and tinnitus.
11. Tinnitus can be a debilitating condition which can reduce a patient's quality of life considerably. I expect that patients with pre-existing tinnitus who live in the

vicinity of where the Convoy is stationed will experience enhanced symptoms which can be triggered by stress as well as the loud and constant noise itself.

12. I also expect that some affected residents will develop symptoms of tinnitus as a result of their exposure to such high levels of noise over the course of several days, and this tinnitus could potentially be permanent.

13. I make this affidavit in good faith and for no improper purpose.

AFFIRMED before me by remotely in)
 accordance with O. Reg 431/20 by)
 videoconference between Ottawa, ON)
 (commissioner) and Ottawa, ON)
 (affiant) this 4th day of February,)
 2022.)

Nita Scherer

Dr. Nita Scherer, M.D., FRCSC
 Otolaryngology, Head and Neck Surgery
 Assistant Professor, University of
 Ottawa

E. J. Staman
 A Commissioner etc.

*lawyer at
 Champ & Associates*

ZEXI LI

-and -

CHRIS BARBER, BENJAMIN
DICHTER, TAMARA LICH, PATRICK KING and
JOHN DOES 1-60

Plaintiff (Moving Party)

Defendants (Responding Parties)

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF NITA SCHERER

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Per: Paul Champ
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Solicitors for the Plaintiff

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ZEXI LI

Plaintiff/Moving Party

- and -

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Defendants/Responding Party

**FACTUM OF THE PLAINTIFF
(Motion for Interlocutory Injunction)**

PART I - THE FACTS

Overview

1. The Moving Party is the representative Plaintiff in a proposed class action against the Defendants, who are organizers and participants of the Freedom Convoy protest.

2. The Freedom Convoy protest commenced on Friday January 28, 2022, in downtown Ottawa in the vicinity of the Parliament Buildings. The Defendants have declared that the protest will be indefinite or until governments agree to repeal all public health measures regarding the COVID-19 pandemic.

3. The key tactic of the protest is to blast semi-tractor-trailer truck horns incessantly all day and late into the night to cause discomfort to political leaders in Parliament and, presumably, the residents of Ottawa. The sound levels of these horns are extreme and dangerous to those who are closeby.

4. The Plaintiff is bringing a proposed class action on behalf of residents who live within the vicinity of the Parliament Buildings in Ottawa. The prolonged and incessant blaring of truck horns is substantially and unreasonably interfering with the use and enjoyment of the homes of the Plaintiff and the proposed Class members.¹

5. The Plaintiff brings this motion for an interlocutory injunction to prohibit the use of truck horns by the Freedom Convoy participants for the duration of the protest, or until the proposed class action is determined.

Facts

6. The Plaintiff lives in the neighbourhood of Centretown in the national capital of Ottawa. This neighbourhood is in the vicinity of the Parliament Buildings. There are approximately 5,000 to 6,000 people who live on the streets close to the Freedom Convoy protest and they are the proposed class in this action.²

7. Freedom Convoy protesters moved into Ottawa on Friday, January 28, 2022. The protest includes many large semi-trailer tractor trucks which have parked in the streets near the Parliament Buildings. These trucks have been blaring their horns together at the same time for prolonged periods from early in the morning until late in the night.

¹ Statement of Claim, dated February 4, 2022 [Plaintiff's Motion Record ("PMR"), Tab 2]

² Affidavit of Zexi Li, affirmed February 4, 2022 ("Li Affidavit") at paras 2-3 [PMR, Tab 3]

The truck horns regularly sound at 105 decibels on the street, and can spike to over 120 decibels when train horns are used.³

8. The Plaintiff lives in an apartment close to the trucks. When the horns are blaring, the sound level in her apartment measures at 84 decibels.⁴

9. The Plaintiff has been experiencing severe mental distress, suffering and torment as a result of the persistent and loud honking from the truck horns. The trucks have been honking horns near the Plaintiff's apartment from morning to night since January 29, 2022, sometimes as late as 1:30 am. With the exception of some short periods of reprieve late in the night, the sound feels like it's nearly constant.⁵

10. The Plaintiff describes the honking horns as affecting her emotionally. She says her nerves are frayed. She can't sleep and does not feel the usual sense of peace, safety and serenity which she usually has when she is at home. During the brief periods when the sound of honking horns subsides, she says she is riddled with anxious anticipation for the moment it will start up again.⁶

11. When the Plaintiff leaves her apartment, she wears a mask and noise-cancelling ear phones. The sound of the horns is so loud that she feels it physically vibrating in her ears. When protesters in the trucks see that she is uncomfortable, they will sometimes blast the horns to deliberately as the Plaintiff walks by, causing her to flinch. This leads to loud cheers and laughs by protesters. The Plaintiff feels unsafe to leave her own home.⁷

12. The normal sound in a home is 35 to 40 decibels. A normal conversation is 55 to 65 decibels. A lawn mower can be 88 to 94 decibels. Sleep is best at 30 decibels and there can be significant interference with sleep when the sound exceeds 45 decibels.⁸

³ Li Affidavit at para 4 [PMR, Tab 3]; Affidavit of Trent Baur, affirmed February 4, 2022 at paras 5-8 [PMR, Tab 4]

⁴ Li Affidavit at paras 4, 7 [PMR, Tab 3]

⁵ Li Affidavit at paras 6, 8-9 [PMR, Tab 3]

⁶ Li Affidavit at paras 8-9 [PMR, Tab 3]

⁷ Li Affidavit at paras 10-11 [PMR, Tab 3]

⁸ Affidavit of Dr Nita Scherer [PMR, Tab 5]

13. Long term exposure to the extremely loud and prolonged truck horns can lead to hearing loss and tinnitus. Exposure to these levels over several days can cause psychological distress.⁹

PART II - ISSUES AND ARGUMENT

14. The issue in this motion is whether this Honourable Court should grant an interlocutory injunction in the form requested by the Moving Party, to prohibit the continued use of loud truck horns by the Freedom Convoy protesters in downtown Ottawa.

LEGAL FRAMEWORK

15. Section 101 of the *Courts of Justice Act* and Rule 40.01 of the *Rules of Civil Procedure* authorize the Court to grant an interlocutory injunction “where it appears to a judge of the court to be just or convenient to do so”.

16. Rule 40.02(1) provides that an interlocutory injunction or mandatory order may be granted on motion without notice for an interim period not exceeding ten days.

17. The test for granting an interlocutory injunction as set out in *RJR MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 SCR 311 is well known. The Court must determine whether:

(a) from a preliminary assessment of the merits of the case, there is a serious question to be tried;

(b) irreparable harm will result to the plaintiff if the relief is not granted;
and

⁹ Affidavit of Dr Nita Scherer [PMR, Tab 5]

(c) which of the parties will suffer the greatest harm from the granting or refusal of the order.

18. The test in *RJR MacDonald* was slightly modified by the Supreme Court of Canada in *R v Canadian Broadcasting Corp.*, 2018 SCC 5. In *R v CBC*, the Court indicated that the applicant must demonstrate a strong *prima facie* case that it will succeed at trial and that it, if the injunction is not granted, it will suffer irreparable harm that is not susceptible or would be difficult to be compensated in damages.

19. The test for granting an interlocutory injunction has been found to be met in other cases where the defendant's actions have placed communities in peril and interfered with community members' quiet enjoyment of their homes. In *Foxgate Developments Inc. v Doe et al*, 2020 ONSC 5038, the Court granted the interlocutory injunctions sought by the Plaintiffs, Foxgate Developments Inc. and Haldimand County, against land defender protesters on a very similar basis. These interlocutory injunctions were initially granted on an interim basis, following *ex parte* motions, but were later confirmed upon return of the motions.

20. The Court in *Foxgate* accepted that there were serious and meritorious questions to be tried and that, if the injunctions were not granted, the Plaintiffs would both suffer irreparable harm that could not be compensated in damages.¹⁰ In discussing the irreparable harm that the Plaintiffs would suffer if relief was not granted, the Court emphasized that the Defendant protestors' conduct was interfering with community members' enjoyment of their homes and was putting their health and safety at risk.¹¹ Those very same circumstances apply to the present case.

¹⁰ *Foxgate Developments Inc. v Doe et al*, 2020 ONSC 5038 at paras. 69-70

¹¹ *Foxgate Developments Inc. v Doe et al*, 2020 ONSC 5038 at paras. 73-78

APPLICATION OF TEST TO THE FACTS

21. The Plaintiff submits that she has met all three branches of the test to grant an interlocutory injunction.

(i) Serious issue to be tried

22. A serious issue to be tried is one that on a preliminary assessment is not frivolous or vexatious. A plaintiff does not have to demonstrate that they will succeed at trial. The threshold is low.¹² Here, the Plaintiff has demonstrated a serious issue to be tried on behalf of the class, with regards to the claim of private nuisance.

23. The law as to nuisance is summarized in *St Lawrence Cement Inc., v Barrette*, 2008 SCC 64 in the following way:

[77] At common law, nuisance is a field of liability that focuses on the harm suffered rather than on prohibited conduct (A. M. Linden and B. Feldthusen, *Canadian Tort Law* (8th ed. 2006), at p. 559; L. N. Klar, *Tort Law* (2nd ed. 1996), at p. 535). Nuisance is defined as unreasonable interference with the use of land (Linden and Feldthusen, at p. 559; Klar, at p. 535). Whether the interference results from intentional, negligent or non-faulty conduct is of no consequence provided that the harm can be characterized as a nuisance (Linden and Feldthusen, at p. 559). The interference must be intolerable to an ordinary person (p. 568). This is assessed by considering factors such as the nature, severity and duration of the interference, the character of the neighbourhood, the sensitivity of the plaintiff's use and the utility of the activity (p. 569). The interference must be substantial, which means that compensation will not be awarded for trivial annoyances (Linden and Feldthusen, at p. 569; Klar, at p. 536).

24. The Plaintiff submits that she has provided sufficient evidence on this motion to demonstrate, on a preliminary assessment, that the nuisance claim is neither frivolous nor vexatious. She and other members of the proposed class have experienced unreasonable interference with the private use and enjoyment of their homes, caused by the Defendants' incessant blaring of high decibel air horns and train horns. The Defendants' conduct is totally unreasonable and unjustified.

¹² *RJR-MacDonald Inc.* at 337-38

25. The interference with Plaintiff's private use and enjoyment of her home has certainly been substantial. For the Plaintiff and other members of the proposed class, the sound within their homes from the Defendants' horn blasting is approximately 80 decibels. This is far louder than the normal sound in a home, which is 35 to 40 decibels. Prolonged exposure to sound levels of 70 decibels and above can cause psychological distress and interfere with psychological integrity. Indeed, as a result of the private nuisance by the Defendants, the Plaintiff and other members of the proposed class have experienced emotional and mental distress, difficulty concentrating, headaches, difficulty sleeping.

(ii) Irreparable Harm

26. The evidence amply demonstrates that the Plaintiff and other members of the proposed class will experience irreparable harm if the injunction is not granted. The evidence on the motion confirms that those living in the vicinity of the Parliament Buildings are experiencing prolonged horns in their homes at levels over 80 decibels. When they exit their homes, the sound levels rise to 105 decibels, with occasional spikes of 121 decibels.

27. At these sound levels, the Plaintiff and class members are experiencing substantial psychological harm and distress in the sanctity of their own homes. These levels may cause permanent hearing loss, tinnitus, and psychological distress.¹³ The Defendants are suggesting that this protest will last for months. The threshold for irreparable harm is met.

(iii) Balance of Convenience

28. Canada is a free and democratic society with a long tradition of peaceful protest and assemblies. The Plaintiff acknowledges that the Freedom Convoy protesters are exercising their fundamental rights and freedoms. The proposed injunction does not intend to prohibit the Defendants from continuing their protest, but rather seeks only

¹³ Affidavit of Dr Nita Scherer [PMR, Tab 5]

to enjoin a certain tactic - blasting extremely loud truck horns incessantly. That tactic is causing serious and perhaps permanent harm to the Plaintiff and the class members. By planning and using this tactic, the Defendants are no longer engaging in peaceful protest.

29. The Defendants have abused their democratic freedoms to cause serious harm to others, innocent bystanders to the Defendants' pursuit of their political goals. The balance of convenience favours granting the interlocutory injunction.

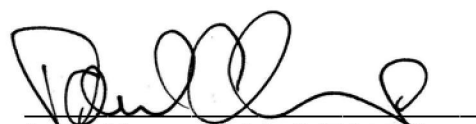
PART III - ORDER REQUESTED

30. The Moving Party submits that the motion should be granted and the Court should issue the following interlocutory order:

31. In the event this motion is heard *ex parte*, the Order should last for only 10 days and the costs should be in the cause. In the event the motion is contested, the Defendants should pay the Moving Party's partial indemnity costs forthwith.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Ottawa, Ontario this 4th day of February, 2022.



Paul Champ (LSO #45305K)
Christine Johnson (LSO #62226I)
Bijon Roy (LSO #50528K)
Emilie Taman (LSO #52049U)

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Solicitors for the Plaintiff

SCHEDULE A - LIST OF AUTHORITIES

Foxgate Developments Inc. v Doe et al, [2020 ONSC 5038](#)

RJR MacDonald Inc. v Canada (Attorney General), [\[1994\] 1 SCR 311](#)

R v Canadian Broadcasting Corp., [2018 SCC 5](#)

St Lawrence Cement Inc., v Barrette, [2008 SCC 64](#)

SCHEDULE B - STATUTES AND REGULATIONS

Courts of Justice Act, RSO 1990, c.C.43, s.101

Rules of Civil Procedure, RRO 1990, Reg. 194, Rules 40.01, 40.02

Courts of Justice Act**R.S.O. 1990, CHAPTER C.43**

Consolidation Period: From December 2, 2021 to the e-Laws currency date.

Last amendment: 2021, c. 34, Sched. 4.

**PART VII
COURT PROCEEDINGS****Interlocutory Orders
Injunctions and receivers**

101 (1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so. R.S.O. 1990, c. C.43, s. 101 (1); 1994, c. 12, s. 40; 1996, c. 25, s. 9 (17).

Terms

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1990, c. C.43, s. 101 (2).

Courts of Justice Act**R.R.O. 1990, REGULATION 194****RULES OF CIVIL PROCEDURE**

Consolidation Period: From October 15, 2021 to the e-Laws currency date.

Last amendment: 709/21.

PRESERVATION OF RIGHTS IN PENDING LITIGATION**RULE 40 INTERLOCUTORY INJUNCTION OR MANDATORY ORDER****How Obtained**

40.01 An interlocutory injunction or mandatory order under section 101 or 102 of the Courts of Justice Act may be obtained on motion to a judge by a party to a pending or intended proceeding. R.R.O. 1990, Reg. 194, r. 40.01.

Where Motion Made without Notice**Maximum Duration**

40.02 (1) An interlocutory injunction or mandatory order may be granted on motion without notice for a period not exceeding ten days. R.R.O. 1990, Reg. 194, r. 40.02 (1).

Extension

(2) Where an interlocutory injunction or mandatory order is granted on a motion without notice, a motion to extend the injunction or mandatory order may be made only on notice to every party affected by the order, unless the judge is satisfied that because a party has been evading service or because there are other exceptional circumstances, the injunction or mandatory order ought to be extended without notice to the party. R.R.O. 1990, Reg. 194, r. 40.02 (2).

(3) An extension may be granted on a motion without notice for a further period not exceeding ten days. R.R.O. 1990, Reg. 194, r. 40.02 (3).

Labour Injunctions Excepted

(4) Subrules (1) to (3) do not apply to a motion for an injunction in a labour dispute under section 102 of the Courts of Justice Act. R.R.O. 1990, Reg. 194, r. 40.02 (4).

ZEXI LI

- and -

CHRIS BARBER, BENJAMIN
DICHTER, TAMARA LICH, PATRICK KING and
JOHN DOES 1-60

Plaintiff (Moving Party)

Defendants (Responding Parties)

ONTARIO
SUPERIOR COURT OF JUSTICE

MOTION RECORD

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